



State of North Carolina  
Utilities Commission

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September 17, 1998

The Honorable Magalie Roman Salas  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Room 222  
Washington, D.C. 20554

Re: CC Docket No. 98-79 - Order Designating Issues for Investigation

Dear Secretary Salas:

By Order dated August 20, 1998, in CC Docket No. 98-79, the Federal Communications Commission (FCC) issued an Order Designating Issues for Investigation. Attached to this letter, please find the original and six copies of Comments on Direct Case filed on behalf of the North Carolina Utilities Commission.

Very truly yours,

*Jo Anne Sanford*  
Jo Anne Sanford, Chair

cc: Competitive Pricing Division - Common Carrier Bureau  
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BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

In the Matter of  
GTE Telephone Operating Companies )  
GTOC Tariff FCC No. 1 )  
GTOC Transmittal No. 1148 )

CC Docket No. 98-79

COMMENTS ON DIRECT CASE

By Order entered February 26, 1998, in Docket No. P-55, Sub 1027, the North Carolina Utilities Commission (NCUC), in a proceeding upon a complaint seeking enforcement of an Interconnection Agreement filed by US LEC of North Carolina, LLC (US LEC) against BellSouth Telecommunications, Inc. (BellSouth), held that traffic to an Internet Service Provider (ISP) from callers within the local calling area is local. In so ruling, the NCUC found that BellSouth, an incumbent local exchange carrier, must pay reciprocal compensation to US LEC, a competitive local exchange carrier (CLEC), pursuant to their Interconnection Agreement when BellSouth exchanges this type of traffic with US LEC.

The NCUC's determination in the US LEC case has been appealed by BellSouth to the United States District Court for the Western District of North Carolina, Charlotte Division. BellSouth has also filed a motion with the United States District Court requesting the Court to stay further proceedings in that case and to refer the legal issues concerning the jurisdictional nature of traffic delivered to ISPs and the CLECs' entitlement to reciprocal compensation payments for such traffic to the Federal Communications Commission (FCC). The NCUC has filed a response in opposition to BellSouth's motion for stay and referral to the FCC. Copies of the NCUC's Order of February 26, 1998, and our relevant federal court pleadings have been filed in this docket by the National Association of Regulatory Utility Commissioners (NARUC) in conjunction with its comments.

The NCUC requests the FCC to consider this filing as it bears on whether GTE's DSL tariff offering is an interstate service, properly tariffed at the federal level, or an intrastate service which should be tariffed at the state level.

Respectfully submitted,

*J. Daniel Long*

J. Daniel Long, Assistant Commission Attorney  
North Carolina Utilities Commission  
Post Office Box 29510  
Raleigh, North Carolina 27626-0510  
(919) 733-3969

September 17, 1998

CERTIFICATE OF SERVICE

I, J. Daniel Long, hereby certify that I have served a copy of the foregoing Comments on Direct Case by the North Carolina Utilities Commission on all parties to CC Docket No. 98-79, by means of United States Mail, postage prepaid, this the 17th day of September 1998.

J. Daniel Long  
J. Daniel Long  
Assistant Commission Attorney  
North Carolina Utilities Commission